

**UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
DOCKETING STATEMENT--CIVIL/AGENCY CASES**

**Directions:** Counsel must make a **docketing statement (civil/agency) filed** entry in CM/ECF within 14 days of docketing of the appeal, or within the due date set by the clerk's docketing notice, whichever is later. File with the entry the (1) docketing statement form with any extended answers and (2) any transcript order form. Parties proceeding pro se are not required to file a docketing statement. Opposing counsel who finds a docketing statement inaccurate or incomplete may file any objections within 10 days of service of the docketing statement using the ECF event-**docketing statement objection/correction filed**.

<b>Appeal No. &amp; Caption</b>	14-6619, Sanchez v. Vargo
<b>Originating No. &amp; Caption</b>	13-cv-00400, Sanchez v. Vargo
<b>Originating Court/Agency</b>	United States District Court for the Eastern District of Virginia

<b>Jurisdiction</b> (answer any that apply)		
Statute establishing jurisdiction in Court of Appeals	28 U.S.C. 2253(a), (c)	
Time allowed for filing in Court of Appeals	30 days after entry of judgment	
Date of entry of order or judgment appealed	3/21/2014 as amended 4/16/2014	
Date notice of appeal or petition for review filed	April 18, 2014	
If cross appeal, date first appeal filed	N/A	
Date of filing any post-judgment motion	March 31, 2014	
Date order entered disposing of any post-judgment motion	April 16, 2014	
Date of filing any motion to extend appeal period	N/A	
Time for filing appeal extended to	N/A	
Is appeal from final judgment or order?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
If appeal is not from final judgment, why is order appealable?		

<b>Settlement</b> (The docketing statement is used by the circuit mediator in pre-briefing review and mediation conducted under Local Rule 33. Counsel may make a confidential request for mediation by calling the Office of the Circuit Mediator at 804-379-4071.)		
Is settlement being discussed?	<input type="radio"/> Yes	<input checked="" type="radio"/> No

<b>Transcript</b> (transcript order must be attached if transcript is needed and not yet on file)		
Is transcript needed for this appeal?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Has transcript been filed in district court?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Is transcript order attached?	<input type="radio"/> Yes	<input checked="" type="radio"/> No

<b>Case Handling Requirements</b> (answer any that apply)	
Case number of any prior appeal in same case	N/A
Case number of any pending appeal in same case	N/A
Identification of any case pending in this Court or Supreme Court raising similar issue	13-7824; 14-6631 If abeyance or consolidation is warranted, counsel must file an appropriate motion.
Is expedited disposition necessary?	<input type="radio"/> Yes <input checked="" type="radio"/> No If yes, motion to expedite must be filed.
Is oral argument necessary?	<input checked="" type="radio"/> Yes <input type="radio"/> No
Does case involve question of first impression?	<input checked="" type="radio"/> Yes <input type="radio"/> No
Does appeal challenge constitutionality of federal or state statute in case to which federal or state government is not a party	<input type="radio"/> Yes <input checked="" type="radio"/> No If yes, notice re: challenge to constitutionality of law must be filed.

<b>Nature of Case</b> (Nature of case and disposition below. Attach additional page if necessary.)
<p>David Joseph Sanchez, Jr. filed a habeas petition in the Eastern District of Virginia on June 24, 2013, pursuant to 28 U.S.C. 2254, challenging his mandatory sentence of life without parole for a homicide committed while he was a juvenile. Mr. Sanchez's habeas petition was premised on the newly-decided Supreme Court case <i>Miller v. Alabama</i>, 132 S. Ct. 2455 (2012), which found mandatory life sentences imposed for crimes committed before the age of 18 violate the Eighth Amendment. The District Court denied Mr. Sanchez's petition, reasoning that <i>Miller v. Alabama</i> is not retroactively applicable to cases finalized prior to <i>Miller</i>, and finding that Mr. Sanchez's petition was therefore time-barred. The District Court issued a certificate of appealability to permit an appeal on the issue of whether <i>Miller</i> is retroactively applicable to cases on collateral review. This is Mr. Sanchez's appeal.</p>

**Issues** (Non-binding statement of issues on appeal. Attach additional page if necessary)

Whether the Supreme Court's decision in *Miller v. Alabama*, 132 S. Ct. 2455 (2012) (finding mandatory life without parole sentences imposed for crimes committed before the age of 18 cruel and unusual punishment under the Eighth Amendment) is retroactively applicable to Mr. Sanchez's conviction, which was finalized prior to the *Miller* decision.

**Adverse Parties** (List adverse parties to this appeal and their attorneys; provide party's address if the party is not represented by counsel. Attach additional page if necessary.)

Adverse Party: Marie Vargo, Warden,

Sussex II State Prison

Attorney: Victoria Lee Johnson

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Adverse Party:

Attorney:

Address:

E-mail:

Phone:

**Adverse Parties (continued)**

Adverse Party:

Attorney:

Address:

E-mail:

Phone:

Adverse Party:

Attorney:

Address:

E-mail:

Phone:



<b>Appellant</b> (Attach additional page if necessary.)	
Name: David Joseph Sanchez, Jr.  Attorney: Carolyn M. Sweeney Address: 1700 Pennsylvania Ave., NW Suite 200 Washington, DC 20006  E-mail: csweeney@kslaw.com  Phone: (202) 626-2930	Name:  Attorney: Address:  E-mail:  Phone:
<b>Appellant (continued)</b>	
Name:  Attorney: Address:  E-mail:  Phone:	Name:  Attorney: Address:  E-mail:  Phone:
<b>Signature:</b> <u>/s/ Carolyn M. Sweeney</u> <b>Date:</b> <u>May 2, 2014</u>  <b>Counsel for:</b> <u>David Joseph Sanchez, Jr.</u>	
<b>Certificate of Service:</b> I certify that on <u>May 2, 2014</u> the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below (Attach additional page if necessary):	
Victoria Lee Johnson Office of the Attorney General of the Commonwealth of Virginia 900 E. Main Street Richmond, VA 23219	
Signature: <u>/s/ Carolyn M. Sweeney</u>	Date: <u>May 2, 2014</u>